

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."
The status of an appeal may be found on court access websites at:
<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wsccl>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL A. MASTERJOHN,
RESPONDENT

FINAL DECISION AND ORDER

ORDER 0002152

Division of Enforcement Case No. 11 REB 115

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Michael A. Masterjohn
P.O. Box 144
Spooner, WI 54801-0144

Wisconsin Real Estate Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Real Estate Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Michael A. Masterjohn (dob 02/01/1986) is licensed in the State of Wisconsin as a Real Estate Salesperson, having license number 59744-94, first issued on 03/18/2004 and current through 12/14/2012. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is P.O. Box 144, Spooner, WI 54801-0144.

2. The Department received a complaint regarding the sale of two vacant lots.

3. Respondent listed two lots for the seller who was his half-sister.

4. On August 10, 2008, the seller signed a form entitled "Broker Disclosure to Clients," acknowledging that she was the client of Respondent. The Disclosure defined and disclosed the concepts of multiple representation relationships and designated agency.

5. Respondent did not have an agency relationship with the buyers of Lot 7. The buyers were his customer, not his client.

6. Respondent gave the buyers of Lot 7 a map prepared by Washburn County which represented the boundaries for various lots situated on Bass Lake Road, including Lot 7. That map contained a disclaimer that read "this map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user."

7. Respondent drafted a Vacant Land Offer to Purchase Lot 7 for the buyers. Respondent disclosed in the offer to purchase that he was the agent of the seller/listing broker, striking out language indicating he was the agent of buyer and seller. Respondent also disclosed in writing that "the seller and listing agent are related." The buyers signed the Offer to Purchase on August 24, 2011; the seller accepted the offer by endorsement on August 26, 2011.

8. On August 24, 2011, the buyers also initialed a Broker Disclosure to Customers which disclosed that buyers were the customer, not the client, of the broker. All of the buyers of Lot 7 initialed the disclosure.

9. Although he listed Lot 6 on behalf of the seller and drafted the offer to purchase for Lot 7, Respondent did not similarly draft an offer to purchase for Lot 6 dated September 16, 2011.

10. On August 30, 2011, Respondent wrote an email to the buyers of Lot 7 stating that he "marked the lines as best that he could" and that the front markers were correct. Respondent also represented that he marked the boundaries with orange tape and indicated that "I can't guarantee that these are the exact line markers, but it matches the map dimensions and appears to be pretty close."

11. After the boundaries were marked, a survey was conducted and it was determined that the lot lines provided by Respondent were inaccurate.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.133(1) by failing to provide brokerage services with reasonable skill and care.

3. As a result of the above violation, Respondent is subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and (L).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Respondent Michael A. Masterjohn is hereby REPRIMANDED.
3. The real estate salesperson license issued to Michael A. Masterjohn (license number 59744-94) is hereby LIMITED as follows:
 - a. Respondent shall, within one year of the date of this Order, successfully complete 3 credits of ethics education offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course;
 - b. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing educational requirements that have been or may be instituted by the Board, Wisconsin Department of Safety and Professional Services or similar authority in this state.
 - c. This limitation shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. Within 90 days of the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$670.00.
5. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be mailed, faxed, or delivered by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any the terms of this Order. IN the event Respondent fails to timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 59744-94) may, in the discretion of the Board or its designee, be SUSPENDED, without further

notice or hearing, until Respondent has complied with payment of the costs and completion of the education.

7. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE EXAMINING BOARD

By: _____

A Member of the Board

Date

11-15-12